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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 000030

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SUBJECT: CHINA RATIFIES PALERMO PROTOCOL AND PLEDGES TO
COOPERATE ON COUNTER-TIP EFFORTS

Classified By: Acting Political Minister Counselor Ben Moeling. Reason
1.4 (b and d).

11. (C) Summary: China on December 26, 2009 voted to ratify the UN Palermo Protocol, effectively obligating itself to bring domestic laws and efforts in line with international standards to combat trafficking in persons (TIP). Separately, a Ministry of Public Security (MPS) official told PolMinCouns that China accepted U.S. government recommendations to strengthen counter-TIP efforts. He emphasized that China would increase its cooperation with other countries and noted that each level of the Chinese government would "make more progress" to improve its counter-TIP approach, including the provision of protection and assistance to human trafficking victims. End Summary.

China Ratifies Palermo

12. (SBU) China's National People's Congress (NPC) on December 26, 2009 voted to ratify the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol), one of two protocols to the UN Convention Against Transnational Organized Crime. The Palermo Protocol sets forth an international definition of the crime of trafficking human beings and commits ratifying states to prevent and combat TIP, protect and assist victims of trafficking (VOT), and advance cooperation with other states to meet these objectives. Palermo also obligates ratifying states to bring domestic laws in line with international counter-trafficking laws. The Ministry of Foreign Affairs (MFA) planned to report ratification to the UN at the earliest opportunity, according to our MFA Treaty and Law contacts. The vote for ratification followed nearly three years of discussion and negotiations within the Chinese government. The effort was pushed along by key government ministries such as the MFA and the Ministry of Public Security (MPS) that held responsibility for implementing the 2007 National Plan of Action to combat human trafficking (NPA), as well as a bevy of international organizations closely tied to government efforts to improve China's capacity to counter trafficking in persons (TIP).

13. (C) Huang Taiyun, Deputy Director General of the NPC's Legislative Affairs Commission Criminal Legislation Department told PolOff on November 5 that for China, this would mean expanding its definition of TIP to explicitly acknowledge labor trafficking and include all forms of exploitation, not just the "selling of persons"; modifying the criminal code to enable prosecution of persons that traffic "human beings" versus the current "women and children"; raising the legal age of a child from 14 to under 18 years; ensuring that VOTs are not punished for offenses

related to their trafficking, such as prostitution or immigration violations; and providing VOTs with alternatives to deportation to countries in which they may face hardship or retribution. China continued to deliberate how to prosecute individuals that assist the trafficking of human beings such as illegal labor agents, which was not explicitly covered under the Protocol, said Huang.

¶4. (SBU) China planned to accede to every article of the Protocol, except Article 15, paragraph 2, which gives the International Court of Justice jurisdiction over disputes between state parties concerning the interpretation or application of the Protocol. The United States, along with nearly 80 percent of states having declarations or reservations to the Protocol, also take exception to Article 15, paragraph 2, according to an analysis of Palermo records documenting state declarations and reservations.

¶5. (C) Under the terms of the Palermo Protocol, China will be able to ratify first and then later modify domestic laws to bring the country into compliance. Embassy contacts concede that full Chinese implementation of the Protocol is not a certainty. One indicator of compliance will be China's willingness to amend domestic labor laws. Several of our contacts expressed concern that China may claim that its current laws do not need amendment as they already meet the Protocol's threshold of protecting labor VOTs. One contact from the International Labor Organization, however, expressed cautious optimism that China eventually will fully comply with Palermo, noting that the Chinese rarely sign a document without reservations unless they deem China capable of fully

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adhering to obligations set forth by the document.

China "Very Willing" to Cooperate with U.S. on TIP Issues

¶6. (C) Separately, Director General of the Criminal Investigation Department of the Ministry of Public Security Yang Dong told PolMinCouns during an October 28 meeting that China concurred with U.S. government recommendations for strengthening China's counter-TIP approach and noted that the Chinese government already was working to implement many of the recommendations that had been put forward.

¶7. (C) China was "very willing" to work with any country, including the United States, to combat human trafficking. Agreeing with PolMinCouns that human trafficking was a serious transnational crime, Yang noted that China must "pay more attention to, and cooperate with" other countries' governments and police to effectively counter human trafficking. To that end, China was looking to deepen and broaden cooperation with other countries, specifically through increased information sharing and capacity building training.

¶8. (C) Yang acknowledged that a successful counter-TIP approach required effective processes and close coordination between the central and local governments, as well as among the various levels of public security bureaus. Each level of government and public security organ must "make more progress" toward achieving the goals set forth in China's five-year plan to combat TIP, Yang said. The NPA tasked 31 government ministries and departments with specific responsibilities to counter TIP. Yang was confident that with the support of local governments and the assistance of other countries, "we could do better."

Future Focus: Victim Protection and Assistance

¶9. (C) MPS Director of the Office to Combat Human Trafficking Chen Shiqu told PolOff on November 5 that China in 2010 planned to focus on protecting the human rights of VOTs and providing them with economic and legal assistance. Embassy

contacts from three separate international NGOs with close ties to the government confirmed that Chinese officials had privately acknowledged that the PRC government's primary weakness in countering TIP remained victim protection and assistance. All three NGOs separately reported that the Chinese government had asked them to provide information materials and capacity training in victim protection and assistance in 2010.

Comment: Positive Steps

10. (C) TIP is a transnational issue on which China is frequently criticized and which combines elements of human rights and law enforcement. As such, we would expect defensiveness and hypersensitivity to any international criticism, reluctance to sign on to any document that imposes international standards on China's internal conditions, and unwillingness to discuss an "internal affair" with the U.S. Embassy. We are therefore encouraged by what we have seen recently. The NPC's action in ratifying the Protocol (necessarily done under instructions from the Communist Party), the commitment to bring Chinese laws into compliance with international standards and the surprising willingness of the normally taciturn Ministry of Public Security to discuss the issue with the U.S. Embassy indicate to us that there has been a high-level policy decision to address the TIP issue in China directly, and to welcome the participation and assistance of the foreign community in doing so. Implementation always lags intention in China, but the positive attitude shown by the NPC and the MPS in this case is cause for optimism.

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